

BOARD REPORT

STATE BOARD OF CHIROPRACTIC EXAMINERS

P.O. BOX 672

JEFFERSON CITY, MO 65102

VOL. 5, No. 1 NOVEMBER, 1998

Renewal

In an effort to reduce costs, this newsletter is being mailed with the annual renewal applications. To avoid delays in processing, the Board encourages licensees to carefully read the instructions on the application form and proceed with the renewal process accordingly. Renewal applications are mailed to all currently licensed chiropractic physicians to the address of record. If your address has changed, please notify the Board promptly. Completed renewal applications must be returned on or before January 1, 1999. The application will not be considered complete until the application form itself is properly completed and returned with the \$125 renewal fee.

To renew a license this year, a licensee must earn twenty-four hours of approved postgraduate education during calendar year 1998. Twelve hours can be of the doctor's choice and the other twelve hours must be earned in the following categories: four hours in x-ray; four hours in differential and/or physical diagnosis; and four hours in emergency procedures and/or boundary training. MTAA certified licensees must earn twelve hours of approved acupuncture postgraduate education. These hours are not in addition to the twenty-four hours required of all licensees. MTAA certified licensees may earn the twelve acupuncture hours in place of the twelve hours in the doctor's choice category, or the

general category. However, licensees who are certified in insurance consulting (IC Certified) must earn an additional twelve hours of approved postgraduate education in the category of insurance claims review. A separate renewal application must be completed for renewal of an I.C. Certification.

An additional \$50 continuing education penalty fee must be paid if the licensee does not earn the requisite number of postgraduate education hours on or before December 31, 1998. This penalty fee is in addition to the \$125 annual renewal fee. Licenses not renewed on or before February 28, 1999 will be inactivated. The fee to reactivate an inactive license is \$375 (\$250 reactivation fee and \$125 renewal fee). Licensees who require additional time to earn the requisite number of postgraduate education hours beyond February 28, 1999, must seek an extension of time from the Board. To apply for an extension, the request must be received by the Board in writing on or before January 1, 1999, and it must clearly indicate the reasons for which such an extension is necessary. Any licensee applying for an extension of time to earn postgraduate education hours must file a completed renewal application and pay the \$125 renewal fee and \$50 continuing education penalty fee with the extension request.

Proposed Changes in Continuing Education Requirements for 1999

The Board recently adopted an amendment to its rule on annual license renewal. When the rule is implemented in 1999, a licensee will have the ability to earn twelve of the twenty-four hour postgraduate education requirement through other continuing education experiences. The complete text of the amendment is included as an attachment to this newsletter. The purpose of the amendment is to establish a more simplified method of monitoring compliance with the statutory continuing education requirements. The most significant changes include:

- Elimination of the sponsor lists to be replaced with a continuing education report form;
- The ability of the licensee to earn up to twelve hours of continuing education through "other continuing education experiences;" and
- A definition of the term "other continuing education experiences."

In 1999, licensees may earn twelve of their twenty-four hours of approved postgraduate education credits through other continuing education experiences. Credit hours earned in the category of "other continuing education experiences" cannot replace the twelve hours of formal continuing education that must be earned in the categories of x-ray; physical or differential diagnosis; and emergency procedures and/or boundary training. Four hours of formal continuing education in each of these categories will still be a requirement for relicensure. The twelve

hours earned through other continuing education experiences may only replace the twelve hours in the general or doctor's choice category. The Board has defined other continuing education experiences as:

- Registered attendance at relevant professional meetings which include, but are not limited to, national, regional, state and local professional association meetings and open meetings of the State Board of Chiropractic Examiners;
- Publication of a book and/or publication of an article in a national or international journal, or periodical relating to chiropractic;
- Teaching an approved postgraduate course;
- Home study, which is defined as self-study of professional material including relevant books, journals, periodicals, videos, tapes, and other materials and preparation of relevant lectures and talks to public groups; and
- Individual study, which includes relevant chiropractic courses subscribed via the internet or by other electronic means.

The Board has placed some restrictions on the number of hours a licensee may earn through "other continuing education experiences." A maximum of six credit hours may be earned by attending relevant professional meetings with no more than two credit hours per meeting. If the meeting is less than two hours in duration, continuing education

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credit can be earned for actual attendance time but not for a meeting that is less than one hour in duration. If the meeting is ninety minutes in duration, CE credit may be granted for the full ninety minutes. A maximum of six credit hours are allowed when earning CE credit through publication of a book or publication of an article in a national or international chiropractic journal or periodical. For home study, the Board will grant CE credit at the rate of one hour for reading a national or international journal or periodical and four hours for reading a book. To qualify for CE credit in the home study category, the journal, periodical or book must be related to the clinical practice of chiropractic. There is no limit, other than the twelve hours, for teaching a postgraduate course or in the category of individual study.

The licensee is required to document other continuing education experiences on the Continuing Education Report Form developed by the Board. These hours must be documented in the same fashion as hours earned by attending formal continuing education programs. The only difference is that the licensee will not have supporting documentation (certificates of attendance) for those hours defined as other continuing education experiences. A copy of the Continuing Education Report Form is included as an attachment to this newsletter. The Continuing Education Report Form replaces the Postgraduate Education Certificate of Attendance for purposes of C.E. documentation currently provided to the Board. The licensee is responsible for completing the new report form and filing with the Board office on or before December 31st of each year. The licensee must maintain full and complete records of all continuing education credits earned for the previous two reporting periods in addition to the current continuing education reporting period. This means that documentation must be maintained on all continuing education credits earned for a period of three years. Actual attendance records that a licensee receives from a C.E. provider after attending a formal continuing education program must be maintained by the licensee for auditing purposes. In 1999, the licensee will no longer provide certificates of attendance to the Board unless asked to do so by the Board. The Board will conduct random audits to determine a licensee's compliance with the continuing education requirements.

New Laws

The acupuncture licensing bill passed in 1998. The new bill was a part of House Bill No. 1601. The new law became effective on August 28, 1998. This act creates the Missouri Acupuncture Advisory Committee under the Missouri State Board of Chiropractic Examiners. Chiropractic physicians licensed under Chapter 331 of the Revised Statutes of Missouri are exempt from licensure under the new acupuncture law unless the chiropractic physician uses the title "licensed acupuncturist." As in any new licensing law, it will likely take a year or longer to begin the licensure process for acupuncturists. The Governor must first appoint the Advisory Committee and then the Advisory Committee will begin writing the rules necessary to carry out the business of licensing and regulating the profession of acupuncture.

While attending a recent acupuncture seminar, a member of the Board heard the presenter inform his audience that the new acupuncture law gives acupuncturists the ability to treat disease. The new law defines "Acupuncture" as "... the use of needles inserted into the body by piercing of the skin and related modalities, for the assessment, evaluation, prevention, treatment or correction of any abnormal physiology or pain by means of controlling and regulating the flow and balance of energy in the body so as to restore the body to its proper functioning and state of health." If the new law should be interpreted to authorize the treatment of disease by licensed acupuncturists, this new law would not, in any way, alter the scope of practice for chiropractic physicians, even if the chiropractic physician is MTAA certified. The only possible exception would be if the chiropractic physician is also a licensed acupuncturist and is practicing acupuncture in accordance with the acupuncture practice act.

With the passage of House Bill 1095, there is a new law which prohibits law enforcement agencies from releasing accident reports containing "the factual circumstances or general description of any injuries" arising from reported accidents within 60 days after the date of the accident, unless the release is to an "interested party." Interested party is defined in the new law as any law enforcement agency, any person who is involved in the accident or incident, the owner of any vehicle involved in the accident or incident, the insurance company, physician or family member of any person involved in the accident or incident or any attorney or any member of the news media. The language in this new law would appear to prohibit telemarketing companies or other third parties from obtaining accident reports within 60 days of the accident. It also addresses some of the complaints received by the Board that have arisen within the past year from accident victims upset over being contacted by telemarketers immediately following their accidents, and being given the names of chiropractors and attorneys for the victims to contact. The new law went into effect on August 28, 1998.

Prior to the enactment of House Bill 1095, the Board amended its Professional Conduct Rules clarifying that personal contact made by a chiropractic physician to an accident victim within thirty days from the date of the accident is prohibitive. This means that if an accident report is given to a chiropractic physician in violation of the above referenced law, the chiropractic physician would be in violation of the Board's Professional Conduct Rules if personal contact is made to an accident victim within thirty days from the date of the accident. The new rule also clarifies that personal contact made on behalf of the licensee by a third party, such as a telemarketing firm, is the same as personal contact made by the licensee. There are certain exceptions to the rule. These exceptions include personal contact made to a close friend, relative or former patient.

It is also important to note in this section that in a recent decision of the Eastern District Court of Appeals, the court upheld a lower court's judgment, which affirmed the decision of the State Board to impose disciplinary action against a chiropractic physician. What makes this case somewhat unusual, the key element of the appeal involved the question of whether Section 331.060.2(14), allowing the Board to seek disciplinary action based upon use by licensees of "any advertisement or solicitation which is false, misleading or deceptive to the general public or persons to whom the advertisement or solicitation is primarily directed", requires that a licensee intend to use such advertising before being found subject to discipline. The appellate court found no element of intentional conduct to be required as a basis for imposing discipline. Therefore, the licensee's argument that he was unaware of the false and misleading nature of his advertising, which was likely the result of a printer's error, is irrelevant. This decision is important because it establishes that 1) chiropractors may be disciplined under this statute even if they do not intend that an advertisement or solicitation be "false, misleading or deceptive" to the intended recipients if the advertisement in fact contains false or misleading information; and 2) chiropractors are responsible for the content of their own advertising, even if the advertising was prepared by a third party on the direction of the chiropractor.

Chiropractors Treating Animals

More and more frequently the Board is hearing about chiropractors that treat animals. The Missouri State Board of Chiropractic Examiners has been involved in discussions with the Missouri Veterinary Medical Board concerning this issue. The Missouri Veterinary Medical Board says it's alright if licensed chiropractors treat animals so long as the treatment is under the immediate supervision of a licensed veterinarian. Immediate supervision is defined by the Missouri Veterinary Medical Board as requiring the licensed veterinarian to be in the immediate area and within audible and visual range of the animal patient and the person treating the patient.

The Missouri State Board of Chiropractic Examiners issues the following statement in response to the many inquiries received regarding this issue.

The Board does not consider the manipulation of animals within the current law defining the practice of chiropractic. It should be understood, however, that any chiropractor doing animal manipulation under the immediate supervision of a veterinarian is not practicing chiropractic within the scope of his Missouri chiropractic license.

The Board will expect compliance with the Chiropractic and Veterinary statutes regarding this matter.

Meeting Schedule for 1999

The Missouri State Board of Chiropractic Examiners is scheduled to meet on the following dates in 1999.

January 6, 1999 – by telephone conference call

March 4, 1999

June 3, 1999

August 26, 1999

December 2, 1999

With the exception of the August meeting, all meetings will be held at the Division of Professional Registration – Main Conference Room, 3605 Missouri Boulevard, in Jefferson City, Missouri. The public is invited to attend the open session of any Board meeting. In 1999, continuing education credit, up to two hours, can be earned by attending a State Board meeting. An open agenda is available for public distribution approximately two (2) weeks prior to each regularly scheduled meeting of the Board.

Disciplinary Actions

Under Board Rule 4 CSR 70-2.066 (1), the Missouri State Board of Chiropractic Examiners must publish or cause to be published all disciplinary actions regarding licensees, including the name of the licensee, the license number, any terms of suspension or probation, or other disciplinary action whether by consent or order. Disciplinary actions may be published in any professional journal read by licensed chiropractors practicing in Missouri, in any newspaper of general circulation, in any newsletter published by the Board, or in any of these publications. The Board has chosen to use its newsletter to comply with the provisions of this rule. Since the printing of the Board's last newsletter, disciplinary action has been imposed on the following licensees.

James D. Daris, D.C.

License No. 6234

License reactivated on September 15, 1998, and immediately suspended for a period of three years. Suspension stayed and license placed on probation with the probation period to begin immediately after the completion of the stayed suspension period. Discipline imposed for violation of Section 331.060.2(2), RSMo.

Ron R. Farotto, D.C.

License No. 5487

License suspended for one year and placed on probation for a period of three years. Execution of said period of suspension stayed under special conditions and license immediately placed on probation. Discipline imposed for violation of Sections 331.060.2(18), (6), (5), (19), and 191.227.1, RSMo. 1994 and 4 CSR 70-2.060(10).

Kenneth R. Van Ommen, D.C.

License No. 5068

License suspended for a period of three months and placed on probation for a period of three years. Execution of suspension stayed and license immediately placed on probation. Discipline imposed for violation of Sections 331.060.2(8), (5), (13), and (18), RSMo. 1994.